

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, filed 6/12/2009, with respect to the rejections of claim 1 for nonstatutory obviousness type double patenting over claim 1 of copending Application No. 11/885425, over claim 1 of US Patent No. 6,936,622, and over claim 1 of US Patent No. 7,470,704 have been fully considered and are persuasive. Claim 1 has been cancelled; therefore these rejections are considered moot. In a telephone communication on 9/23/2009, it was communicated to the Applicant's attorney, Sheldon McGee that a rejection for nonstatutory obviousness type double patenting remained for the claims 2-6 and 8 over claims 1-3 of US Patent No. 7,470,704. A terminal disclaimer was filed on 10/5/2009, which was approved. The rejection of claims 2-6 and 8 is withdrawn. An examiner's amendment and a statement of reasons for allowance are discussed below. Claims 10-11 had been previously withdrawn due to a restriction requirement. In a telephone conversation on 10/8/2009, the Applicant's attorney elected to cancel claims 10-11.

Examiner's Amendment

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

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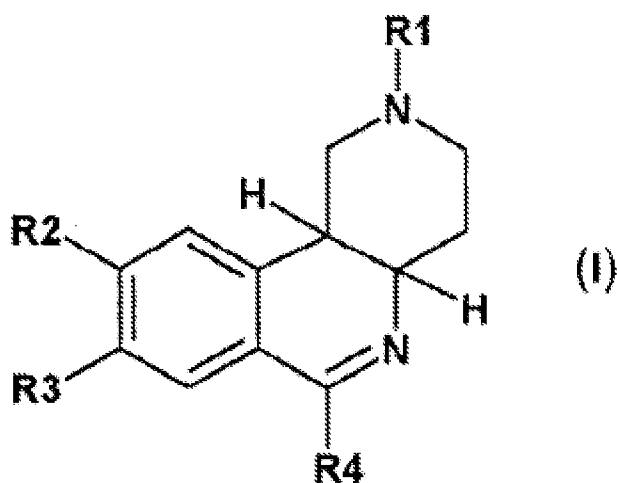
Authorization for this examiner's amendment was given in a telephone interview with Sheldon McGee on 10/8/2009.

The application has been amended as follows:

3. Please **delete** claims 10 and 11.

Reasons for Allowance

4. The following is an examiner's statement of reasons for allowance: claims 2-6 and 8 are allowable over the prior art, as there exists no teaching or suggestion in the prior art to arrive at the claimed compounds. The closest prior art is Flockerzi et. al., WO 98/21208 patent publication (the WO '208 publication). The compounds taught by the WO '208 patent publication, which are shown below, share a common core structure and several substituents with the instantly claimed compounds:



The difference between the compounds taught by the WO '208 publication and the instantly claimed compounds is that, for the compounds taught by the WO

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'208 publication, R₄ is a phenyl radical substituted with R₆, in which R₆=CO-R₈, R₈=N(R₈₁)R₈₂, R₈₁=H, etc., R₈₂=C₁₋₇ alkyl, C₃₋₇ cycloalkyl, etc. The position equivalent to R₈₂ in the instantly claimed compounds is substituted with a C₁₋₃ ether. As there is no teaching or suggestion in the prior art to modify the compounds taught in the WO '208 publication to arrive at the instantly claimed compounds, the claims are novel and non-obvious over the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

5. Claims 2-6 and 8 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SARAH PIHONAK whose telephone number is (571)270-7710. The examiner can normally be reached on Monday-Thursday 8:00 AM - 6:30 PM EST, with Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on (571)272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Shengjun Wang/
Primary Examiner, Art Unit 1627

S.P.